IN THE NEBRASKA COURT OF APPEALS

MEMORANDUM OPINION AND JUDGMENT ON APPEAL

STATE EX REL. ADAMS V. ADAMS

STATE OF NEBRASKA EX REL. MARY CATHERINE ADAMS, APPELLEE,
V.
CHRIS EUGENE ADAMS, APPELLANT.

Filed March 30, 2010. No. A-09-496.

Appeal from the District Court for Otoe County: DANIEL E. BRYAN, JR., Judge. Affirmed.

Richard H. Hoch, of Hoch, Partsch & Noerrlinger, for appellant.

Eugene L. Kelly, Special Assistant Attorney General, for appellee.

INBODY, Chief Judge, and SIEVERS and CASSEL, Judges.

INBODY, Chief Judge.

INTRODUCTION

Chris Eugene Adams appeals the Otoe County District Court's denial of his request for a modification of a dissolution decree to correct the court's record of child support liability and the accounting of child support paid by him.

STATEMENT OF FACTS

In 1979, Chris Eugene Adams and Mary Catherine Adams were divorced, Mary was awarded custody of the parties' three minor children, and Chris was ordered to pay monthly child support of $130 per child, the youngest of whom was born in April 1977. Chris moved to Arkansas in August 1980. In 1982, the State of Nebraska, on behalf of Mary, filed a petition under Nebraska's Revised Uniform Reciprocal Enforcement of Support Act (RURESA) to collect child support from Chris in Arkansas. The petition alleged that Chris was $8,930 in arrears on his child support payments. In May 1982, the Arkansas court entered an order directing Chris to pay monthly child support of $75 per child and ordering Chris to pay $50 per month on the child support arrearage, which the Arkansas court determined to be $5,000.

In 1993, RURESA was repealed and the Uniform Interstate Family Support Act was enacted. In February 1994, in response to a request by the State of Arkansas, the Arkansas court determined that Chris' child support arrearage was $6,789. The Arkansas court also ordered Chris to pay child support of $50 per week for the parties' one remaining minor child. Just a few months later, in July, the Nebraska court modified Chris' child support to $215 per week for the parties' one remaining minor child. During this time, Mary and the parties' youngest child remained in Nebraska until October or November 1994, when they moved to Alabama.

This case was again relatively quiet until 1996, when the parties' youngest child became emancipated after her marriage. After this development, the Arkansas court filed an order on May 14, abating Chris' child support effective January 6, 1996, and ordering Chris to pay $200 per month toward his $6,620.25 child support arrearage. In December 1998, the Arkansas court terminated the garnishment of Chris' pay because his judgment was shown as fully paid. Shortly thereafter, the Nebraska Child Support Center began to garnish Chris' pay. Chris called Otoe County and learned that Otoe County's records showed that he was approximately $6,000 in arrears for child support and had $40,000 due in late charges and interest.

Almost a decade passed, when in July 2008, Chris filed a complaint to modify the parties' dissolution decree in Otoe County District Court seeking a determination that his child support judgment was satisfied and seeking reimbursement for support garnished by Nebraska. The district court denied Chris' request to find that he had fully satisfied his child support obligation. The court found that the orders entered by the Arkansas court were entered prior to the operative date of the Uniform Interstate Family Support Act (UIFSA), and thus, RURESA, which was in effect at the time of the pertinent actions by Nebraska and Arkansas, although since repealed, was controlling.

ASSIGNMENT OF ERROR

Chris' assignments of error can be consolidated and restated into the following issue: The district court erred in denying his request for a modification of a dissolution decree to correct the court's record of child support liability and the accounting of child support paid by him.

STANDARD OF REVIEW

An appellate court reviews proceedings for modification of a dissolution decree de novo on the record and will affirm the judgment of the trial court absent an abuse of discretion. *Rood v. Rood*, 4 Neb. App. 455, 545 N.W.2d 138 (1996).

Statutory interpretation is a question of law. *State ex rel. Amanda M. v. Justin T.*, 279 Neb. 273, 777 N.W.2d 565 (2010); *Allen v. Immanuel Med. Ctr.*, 278 Neb. 41, 767 N.W.2d 502 (2009). When reviewing questions of law, an appellate court has an obligation to resolve the questions independently of the conclusions reached by the trial court. *State ex rel. Amanda M. v. Justin T., supra*.

ANALYSIS

Chris contends that the district court erred in denying his request for a modification of a dissolution decree to correct the court's record of child support liability and the accounting of child support paid by him. Chris argues that the district court erred in finding RURESA

controlling even though it had been repealed in 1993 and failing to apply UIFSA. Chris contends that Nebraska courts must honor child support modifications made by a receiving state after the adoption of UIFSA.

The State contends that this court's opinion in *Rood v. Rood, supra*, which presented a similar factual situation is controlling. In *Rood*, the father was ordered to pay $150 per month in child support for each of his two minor children. His ex-wife assigned her interest in the child support payments to the Nebraska Department of Health and Human Services. Shortly after the dissolution, Rood moved to Michigan and the State of Nebraska initiated proceedings in a Nebraska court under RURESA to enforce the child support obligations of the Nebraska decree in Michigan. As a result thereof, a stipulation and an order were entered in a Michigan court setting Rood's support at $25 per week. After the children had reached the age of majority, Rood sought to have the Nebraska child support order modified to conform to the Michigan order and to decrease the amount of child support arrearages.

We determined that the Michigan court enforced Rood's duty of support by ordering him to pay $25 per week in child support but the Michigan order did not in any way nullify, modify, or otherwise supersede the amount of support mandated by the original Nebraska decree, but instead provided an additional, supplementary remedy for Rood's delinquency in making his support payments. Further, the Michigan order did not operate as a modification of Rood's support obligations, and his monthly child support continued to accrue at a rate of $150 per month per child, regardless of the provisions of the Michigan enforcement order.

Likewise, in the instant case, the State filed a petition in Otoe County District Court to initiate proceedings in Arkansas pursuant to RURESA. In a RURESA proceeding, to determine the effect of a responding state's support order on an original order of support, courts look to the antisuppression or antinullification clause of the responding state's version of RURESA. *Rood v. Rood, supra*. Thus, in the instant case, the effect of the Arkansas order on the original Nebraska decree would be governed by the antisuppression clause of Arkansas' version of RURESA. However, neither party presented the issue of Arkansas law to the district court and neither party has provided us with any guidance on Arkansas law, and therefore, we presume the law of Arkansas to be the same as the law of Nebraska on the subject. See *id*.

At the relevant time, Neb. Rev. Stat. § 42-792 (Reissue 1988) provided in part:

> A support order made by a court of this state pursuant to sections 42-762 to 42-7,104 shall not nullify and shall not be nullified by a support order made by a court of this state pursuant to any other law or by a support order made by a court of any other state pursuant to a substantially similar act or any other law, regardless of priority of issuance, unless otherwise specifically provided by the court.

Since we presume Arkansas law at the relevant time was the same as the above, the 1982 Arkansas order could not have nullified the support provisions of the Nebraska decree unless the Arkansas court specifically provided that the order would nullify the previous Nebraska obligation. A review of the 1982 Arkansas order reveals no indication that the court intended to nullify Chris' obligations under the Nebraska decree. Thus, similar to *Rood v. Rood*, 4 Neb. App. 455, 545 N.W.2d 138 (1996), the 1982 Arkansas court order enforced Chris' duty of support but did not in any way nullify, modify, or otherwise supersede the amount of support mandated by

the original Nebraska decree. Further, the 1982 Arkansas order did not operate as a modification of Chris' support obligations, and his monthly child support continued to accrue at the rate as provided by the Nebraska courts.

However, the February 1994 Arkansas court order was filed after RURESA was repealed and after UIFSA had been enacted and became effective in Nebraska. At the time of the entry of the 1994 Nebraska and Arkansas orders, Nebraska's UIFSA provided that Nebraska maintained continuing, exclusive jurisdiction over a child support order as long as this state remained the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued or until each individual party filed written consent with the tribunal of this state for a tribunal of another state to modify the order and assume continuing, exclusive jurisdiction. Neb. Rev. Stat. § 42-709 (Reissue 1993). There is nothing in the record showing that the parties filed written consent with the Nebraska court to have Arkansas assume jurisdiction; therefore, we must consider whether any of the parties remained in Nebraska.

The evidence established that Mary and the parties' youngest child remained in Nebraska until October or November 1994, when they moved to Alabama. Therefore, Nebraska maintained continuing, exclusive jurisdiction, and the Nebraska court had jurisdiction to enter the 1994 order. Furthermore, although it appears that Nebraska lost continuing, exclusive jurisdiction to modify the child support provision of the dissolution decree in October or November 1994, since both parents and the minor children had moved away from Nebraska, this does not have an impact on the order already entered. See, § 42-709(a)(1); *Groseth v. Groseth*, 257 Neb. 525, 600 N.W.2d 159 (1999).

The final Arkansas order at issue is the May 14, 1996, order which purported to abate Chris' child support effective January 6, 1996, and ordered Chris to pay $200 per month toward his $6,620.25 child support arrearage. This order was entered after the parties' youngest child reached the age of majority and, thus, after all of the child support ordered by the Nebraska courts had vested. It is well-established in Nebraska that child support payments become a vested right of the payee in a dissolution action as they accrue, and therefore, generally, a court may not forgive or modify past-due child support. *Gress v. Gress*, 257 Neb. 112, 596 N.W.2d 8 (1999); *Griess v. Griess*, 9 Neb. App. 105, 608 N.W.2d 217 (2000). Thus, the amounts vested could not be modified once accrued, and the Arkansas court's order attempting to do so was ineffective.

CONCLUSION

Having found that the district court properly determined that Chris' Nebraska child support judgment has not been satisfied, we affirm the decision of the district court.

AFFIRMED.